IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.1043 of 2004

Between:

M/s S.K.Industries, Partnership Firm

rep. by its Managing Partner Raisuddin Ahmed,
S/o S.K.Ahmed, R/o 1-2-15/3,

Ravindranagar,
Adilabad District.

..... PETITIONER

AND

1. The State Bank of Hyderabad,

Collectorate Branch, Adilabad District,

rep. by its Branch Manager.

2. The Union of India,

rep. by its Secretary,

Ministry of Finance (Bank Division),
Jeevan Deep Building,

Sansad Marg,
New Delhi.

.....RESPONDENTS

(R-2 is impleaded as per court order dt.27-1-2004 in WPMP No.1808 of 2004)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction, or issue an appropriate Writ more particularly one in the nature of Writ of Mandamus:
i) Declaring the Provisions Under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 giving wider and arbitrary powers to the Banks for recovery of loans is illegal, arbitrary, and violative of Article 14 of the Constitution of India; ii) Declare the action of respondent in issuing the statutory Notice dated 17-10-2002, No.F/41/212, Under Section 13(2) of S.R.E.S.I.Act 2002 is illegal, arbitrary and violative of Article 14 of the Constitution of India; iii) and direct the respondent herein not to seize the moveable and immovable properties of M/s S.K.Industry a ginning and pressing Factory situated at Sonala Village, Boath Mandal, Adilabad District and other properties of petitioner herein.

Counsel for the Petitioner : Sri S.CHANDRASEKHAR

Counsel for the Respondent No.1 : Sri K.V.SIMHADRI

Counsel for the Respondent No.2 :Sri A.Rajasekhar Reddy,

Standing Counsel for Central Govt.

The Court made the following :

ORDER: (Per Hon'ble the Chief Justice)

In view of the decision rendered by the Hon'ble Supreme Court in Transfer Case (Civil) No.92-95 of 2002 dated 8th April, 2004 *(MARDIA CHEMICALS LTD v. UNION OF INDIA AND OTHERS*), challenge to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, is not tenable and for that reason, relief prayed for cannot be granted.

The Writ petition, therefore, is dismissed.

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DEVINDER GUPTA, C.J.

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C.V.RAMULU,J.

01-10-2004

bsc

To

1. The Branch Manager,

The State Bank of Hyderabad,

Collectorate Branch,

Adilabad District,

2. The Secretary,

The Union of India,

Ministry of Finance (Bank Division),
Jeevan Deep Building,

Sansad Marg,
New Delhi.

3. 2 C.D. copies